

ASSEMBLY BILL

No. 1861

Introduced by Assembly Member Villines

February 12, 2010

An act to amend Section 273a of the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 1861, as introduced, Villines. Child abuse.

Existing law provides that it is unlawful for any person to willfully cause or permit any child to suffer, or inflict thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully cause or permit the person or health of that child to be injured, or willfully cause or permit that child to be placed in a situation where his or her person or health is endangered. This conduct is a misdemeanor or felony if it is done under circumstances or conditions likely to produce great bodily harm or death to the child, and a misdemeanor if these circumstances are not present.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 273a of the Penal Code is amended to
2 read:
3 273a. (a) ~~Any~~ Every person who, under circumstances or
4 conditions likely to produce great bodily harm or death, willfully

1 causes or permits any child to suffer, or inflicts thereon
2 unjustifiable physical pain or mental suffering, or having the care
3 or custody of any child, willfully causes or permits the person or
4 health of that child to be injured, or willfully causes or permits
5 that child to be placed in a situation where his or her person or
6 health is endangered, shall be punished by imprisonment in a
7 county jail not exceeding one year, or in the state prison for two,
8 four, or six years.

9 (b) ~~Any~~ Every person who, under circumstances or conditions
10 other than those likely to produce great bodily harm or death,
11 willfully causes or permits any child to suffer, or inflicts thereon
12 unjustifiable physical pain or mental suffering, or having the care
13 or custody of any child, willfully causes or permits the person or
14 health of that child to be injured, or willfully causes or permits
15 that child to be placed in a situation where his or her person or
16 health may be endangered, is guilty of a misdemeanor.

17 (c) If a person is convicted of violating this section and probation
18 is granted, the court shall require the following minimum
19 conditions of probation:

20 (1) A mandatory minimum period of probation of 48 months.

21 (2) A criminal court protective order protecting the victim from
22 further acts of violence or threats, and, if appropriate, residence
23 exclusion or stay-away conditions.

24 (3) (A) Successful completion of no less than one year of a
25 child abuser's treatment counseling program approved by the
26 probation department. The defendant shall be ordered to begin
27 participation in the program immediately upon the grant of
28 probation. The counseling program shall meet the criteria specified
29 in Section 273.1. The defendant shall produce documentation of
30 program enrollment to the court within 30 days of enrollment,
31 along with quarterly progress reports.

32 (B) The terms of probation for offenders shall not be lifted until
33 all reasonable fees due to the counseling program have been paid
34 in full, but in no case shall probation be extended beyond the term
35 provided in subdivision (a) of Section 1203.1. If the court finds
36 that the defendant does not have the ability to pay the fees based
37 on the defendant's changed circumstances, the court may reduce
38 or waive the fees.

39 (4) If the offense was committed while the defendant was under
40 the influence of drugs or alcohol, the defendant shall abstain from

1 the use of drugs or alcohol during the period of probation and shall
2 be subject to random drug testing by his or her probation officer.
3 (5) The court may waive any of the above minimum conditions
4 of probation upon a finding that the condition would not be in the
5 best interests of justice. The court shall state on the record its
6 reasons for any waiver.

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